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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/581,271	10/26/2000	Yoichiro Sako	6715/60007	2353

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EXAMINER

TRAN, TONGOC

ART UNIT	PAPER NUMBER
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2134

DATE MAILED: 02/17/2004

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Please find below and/or attached an Office communication concerning this application or proceeding:

Office Action Summary

Application No.

09/581,271

Applicant(s)

SAKO ET AL.

Examiner

Tongoc Tran

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) 41 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 2134

DETAILED ACTION

1. This office action is in response with applicants' application serial no. 09/581,271 filed on 10/26/2000.

Claim Objections

2. Claim 42 is objected to because of the following informalities:

The term "that" in line 7 appears to be a typographical error. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-40 are rejected under 35 U.S.C. 102(e) as being anticipated by (US Patent Application Publication US2001/0042043).

In respect to claim 1, Shear discloses a data transmitting apparatus comprising:
an interface for connection to various external apparatuses;
external-apparatus identifying means for determining a type of an external apparatus connected to the interface and outputting data representing a type of the external apparatus (see Shear, [0282]); and control means for controlling transmission of output

data to the an external apparatus through the interface, in accordance with a result of determining the type of the external apparatus by the external-apparatus identifying means (see Shear [0220]).

In respect to claim 2, Shear discloses the data transmitting apparatus according to claim 1, wherein the external-apparatus identifying means determines whether the external apparatus is a data storage apparatus that has memory means for storing data input through the interface, and the control means stops the transmission of output data to the external apparatus when the external-apparatus identifying means determines that the external apparatus is the data storage apparatus (see Shear, [0030, 0054]).

In respect to claim 3, Shear discloses the data transmitting apparatus according to claim 1, wherein the external-apparatus identifying means determines a version of the external apparatus, and the control means controls the transmission of output data to the external apparatus through the interface, in accordance with the version of the external apparatus (see Shear [0070]).

In respect to claim 4, Shear discloses the data transmitting apparatus according to claim 1, wherein the external-apparatus identifying means determines whether the external apparatus is a copyright-related one, and the control means controls the transmission of output data to the external apparatus through the interface, in accordance with result of determination (see Shear, [0054]).

In respect to claim 5, Shear discloses the data transmitting apparatus according

Art Unit: 2134

to claim 1, wherein the control means controls the transmission of output data to the external apparatus through the interface, in accordance with copy- permitting information that controls copying of the output data (Shear, [0054]).

In respect to claim 6, Shear discloses the data transmitting apparatus according to claim 5, further comprising:

data-reproducing means provided for reproducing the output data from a recording medium, and the copy permitting information is recorded on the recording medium together with the copy-permitting information (see Shear, [0054]).

In respect to claim 7, Shear discloses the data transmitting apparatus according to claim 1, wherein the control means controls the transmission of output data to the external apparatus through the interface, in accordance with an amount in which the output data is to be transmitted to the external apparatus (see Shear, [0092]).

In respect to claim 8, Shear discloses the data transmitting apparatus according to claim 1, wherein the control means controls the transmission of output data to the external apparatus through the interface, in accordance with a speed at which the output data is to be transmitted to the external apparatus (see Shear, [0179]).

In respect to claim 9, Shear discloses the data transmitting apparatus according to claim 1, wherein data-reproducing means is provided for reproducing the output data from a recording medium, and the control means controls the transmission of output data to the external apparatus through the interface, in accordance with the recording medium (see Shear, [0220]).

In respect to claim 10, Shear discloses the data transmitting apparatus according

Art Unit: 2134

to claim 1, wherein the control means selectively encrypts the output data before the output data is transmitted to the external apparatus (see Shear, [0054]).

In respect to claim 11, Shear discloses the data transmitting apparatus according to claim 1, further comprising- fee-charging means [is provided] for charging a fee in accordance with the transmission of output data through the interface, and the control means controls a fee-charging process performed by the fee-charging means, in accordance with the result of determination made by the external-apparatus identifying means (see Shear, [0092]).

In respect to claims 12-22, the claims limitations are method claims that are substantially similar to apparatus claims 2-11. Therefore, claims 12-22 are rejected based on the similar rationale.

In respect to claim 23, Shear discloses a data apparatus comprising:
a plurality of interfaces of different types; and control means for controlling transmission of output data through the plurality of interfaces in accordance with the types of interfaces (see Shear, [0039, 0282 and 0220]).

In respect to claims 24-30, the claim limitations are substantially similar to claims 5-11. Therefore, claims 24-30 are rejected based on the similar rationale.

In respect to claims 31-38, the claim limitations are method claims that are substantially similar to apparatus claim 23, 5-11. Therefore claim 31 are rejected based on the similar rationale.

Art Unit: 2134

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 41-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shear et al. (U.S. Patent Application Publication, US 2001/0042043) in view of Ottensen et al. (U.S. Patent No. 5,654,747).

In respect to claim 41, Shear discloses a data transmitting method for use in a data transmitting apparatus for transmitting, through an interface, output data reproduced from a recording medium, the method comprising:

a fee-charging control step of performing a fee-charging process in accordance with the transmission of output data through the interface and controlling the transmission of output data (see Shear [0092]). Shear does not explicitly disclose wherein the fee-charging control step is to perform the fee-charging process by "updating", in accordance with the fee to be charged, data recorded on the recording medium and corresponding to a sum of fees that can be charged for the recording medium, and to stop the transmission of output data through the interface when the data corresponding to the sum of fees reaches or exceeds a predetermined value. However, Ottensen discloses communicating a billing signal to the information network in response to each presentation of a downloaded source program (updating). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Ottensen by updating the billing

Art Unit: 2134

information as information is downloaded from source with Shear's teaching of billing for the fee charging control system in order to allow for automatic billing for each program presentation to the customer's account (see Ottensen, col. 8, lines 5-9). Furthermore, Shear does not explicitly disclose stop the transmission of output data when the data corresponding to the sum of fees reaches or exceeds a predetermined value. However, Official Notice is taken that pay for view with predetermined selection of program by subscriber is old and well known. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate stopping output when data corresponding to the sum of fees reaches as in preselect pay for view program with Shear's fee charging control system in order to output program according to subscriber's predetermined on selected program they are interested to view.

In respect to claims 42-44, the claim limitations are substantially similar to claim 41. Therefore, claims 42-44 are rejected based on the similar rationale.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-Salihi discloses method and apparatus for preventing unauthorized transmission.

-Sprague et al. Discloses an information distribution system.

-Schulhof et al. Discloses an apparatus for distributing subscription and on-demand audio program.

Art Unit: 2134

-Archibald et al. Discloses a method and apparatus that accounts for usage of digital application.

-Schulhof et al. Discloses a system distributing subscription and on-demand audio programming.

-Literal et al. Discloses a PSTN architecture for video on demand services.

-Shear discloses a database usage metering and protection system and method.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tongoc Tran whose telephone number is (703) 305-7690. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory A. Morse can be reached on (703) 308-4789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner: Tongoc Tran
Art Unit: 2134


GREGORY MORSE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER

Application/Control Number: 09/581,271

Art Unit: 2134

Page 9

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February 9, 2004